

*Recd by
W.W. (12)*

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

Sitting at Tokyo, Japan

Case No. I

THE UNITED STATES OF AMERICA: et al

v.

MAGAKI, Sadao, et al

APPLICATION OF THE ACCUSED MAGAKI, Seishiro,
FOR AN ORDER FOR PRODUCTION OF WITNESSES

Comes now the accused herein, MAGAKI, Seishiro, and makes known to this Tribunal that he is desirous of obtaining from this tribunal an order and process for the production of the following persons as witnesses in his behalf at this trial:

Mihai, Toyoichi - This witness' nationality is Japanese. He is said to be in the custody of Russia in Siberia. He is formerly Intendance Colonel member of the Manchurian and Mongolian section of the Ministry of War of the Japanese Empire.

The facts concerning which this witness can give testimony are:

1. That during the War Ministry of General MINAMI there had been no planning of the establishment of a separate State in Manchuria.
2. That due to lack of a settled plan to deal with the new situation in Manchuria the Japanese Government's policies respecting Manchuria underwent many changes.
3. That Japanese Government demands regarding Manchuria were limited to special rights, and the desire for peace and the natural expansion of Japanese interests.
4. That the purpose of operational plans was the preservation of peace and defense against invasion by Soviet Russia.
5. That the economic policies regarding Manchuria were based on co-prosperity of Japan and Manchuria.
6. That there were many different opinions regarding the policies of the South Manchurian Railways, as between the old nationalists and sponsors of co-prosperity.
7. That the new policy regarding Manchuria did not exclude foreign financial support, but invited it.

The relevancy of the testimony which this witness can give is that it disputes the prosecution's claim that the Japanese planned aggressive war against China, Russia and other nations.

SHIMOMURA, Nobusada - This witness' nationality is Japanese. He is said to be in the custody of Russia in Siberia. He was formerly Liaison Officer of the Japanese Army stationed at Harbin in Manchukuo.

The facts concerning which this witness can give testimony are that he took part in the discussions for a truce agreement with the Russians at the time of the Halkin-Gor River (Nomonhan) Incident and that settlement was made regarding the disputed boundary line and the whole matter closed.

This evidence is relevant to the showing attempted to be made by prosecution of aggressive design on the part of the Japanese Empire to wage war on Russia.

SULTAKA, KEMZO - This witness' nationality is Japanese. He is said to be in custody of Russia in Siberia. He was commander of the 19th Division of the 12th Japanese Army, the commander of the 3rd Army, and Vice President of the new State University in Manchukuo.

The facts concerning which this witness can give testimony are that as commander of the 19th Division he was in charge of operations at Chang Kunfen, where Japanese and Russian forces clashed over a boundary line dispute. He has full knowledge of all aspects thereof and can acquaint this Tribunal with exactly what there occurred, the causes and the result.

This evidence would be relevant in view of the evidence adduced by the prosecution tending to show that Japan was the aggressor in the incident and staged the incident as part of its plan to wage war on Russia.

WHEREFORE, your petitioner prays that appropriate order be entered herein for the issuance of process of this Tribunal ad testificandum for the production of each of the aforesaid witnesses at this trial.

The precise date upon which such witnesses' testimony will be given is not now known to this petitioner, but he states that their presence for the purpose of interview and consultation is current.

ITAGAKI, Seishiro
BY _____
Yamada, Honzo

Floyd J. Mattice
His Counsel.